

June 22, 2021

Delta Troy Interests, LTD  
3939 Hartsdale Drive  
Houston, TX 77063

Re: Docket DOT-OST-2021-0056

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
West Building Ground Floor  
Room W12-140  
Washington, D.C. 20590-0001

Dear Department of Transportation,

We are writing regarding the proposed Texas high-speed rail project and the ineffective regulatory monitoring by the Federal Railroad Administration (FRA) of its project developer, Texas Central Railways (TCR).

The proposed Texas high-speed rail project is fatally flawed due to multiple environmental and social justice deficiencies relating to impacts on the region's floodplains, creeks, wetlands, fish and wildlife, water supply and quality, safety, land use, aesthetics, values, conservation, and the needs and welfare of the people, especially the minority communities in Waller and Harris Counties.

The disproportionately negative impacts on Waller County are especially noteworthy, given its 54.3% majority minority population consisting of the following groups: Black or African American (Non-Hispanic) (24.5%), White (Hispanic) (17.6%), Other (Hispanic) (10.7%), and Two+ (Non-Hispanic) (1.52%). In 2018, the median property value in Waller County was \$174,900.

By dividing and isolating some areas and neighborhoods from others, the proposed high-speed rail project will reinforce and in many cases exacerbate geographic, racial, and income disparities along its path. At its very essence, the proposed project serves affluent travelers and business executives at the expense of the rural residents in areas in between who must bear the brunt of the environmental, economic and social degradation and segregation wrought by the project. While the project's promoters may thrive financially, the many residents negatively impacted by the proposed project will be literally cut off from the economic opportunity of the American dream.

An example of underserved communities being denied equity is found within the Environmental Impact Statement (EIS) for this project. We had requested of the FRA that the proposed route be changed to a less environmentally and societally harmful option upon entering Houston. We included a map showing that TCR could use new infrastructure near Highway 290, such as

newly-funded regional detention ponds as well as power lines, upon which to piggyback. This would eliminate the construction of more duplicative and visually blighting infrastructure in an environmentally sensitive and majority-minority population area (**Exhibit 1**).

We had also requested of the FRA that any further draft EIS analysis be suspended until the impact of the proposed new Binford Road electrical line was more effectively explained and detailed, for example. The FRA ignored our request in issuing the current FEIS.

Furthermore, in light of the catastrophic impacts on the Texas Gulf region of Hurricane Harvey and Tropical Storm Imelda, both of which were completely unaddressed in TCR's draft EIS, we requested that FRA and/or the U.S. Army Corps of Engineers (USACE) issue a supplemental EIS dealing with flooding in Harris and Waller Counties. The current FEIS utterly ignores both devastating natural disasters, leaving the Houston metropolitan region exposed and highly vulnerable to massive flood damage if the high-speed rail project proceeds as currently proposed.

FRA accessed and reviewed only 30% of the land parcels along the proposed project's 240-mile route. The majority of the parcels have been assessed for critical hydrological features and potential endangered and threatened species habitat by "desktop survey analysis," an extraordinarily non-scientific way to issue critical environmental determinations of such immense impact on Texas property owners and the broader natural environmental landscape and regional economy.

This proposed project had been touted by its promoters as a "private" venture that would not seek federal government grants or operating subsidies. Due to this fact, federal agencies may have been less involved in regulating its compliance with NEPA versus a partially or fully-publicly funded venture subject to a higher level of federal scrutiny.

On June 10, 2020, Texas media reported that Texas Central Chairman and Republican Party mega-donor Drayton McLane earlier revealed to a Texas State Senator that the project's budget had ballooned from \$10 billion to \$30 billion in just five years, at a pace greater than that of the California high-speed project. McLane also revealed that the project touted since its inception as a private venture now required a federal bailout from a hoped-for "President Trump's infrastructure stimulus." Please see attached letter (**Exhibit 2**).

Regrettably, the FRA has failed to execute its EIS regulatory mission responsibly or effectively. The potential use of significant taxpayer funds justifies a higher level of regulatory scrutiny and compliance with NEPA, and consideration of equity with regard to underserved populations along the train alignment. President Biden's executive order for "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" may be the last hope for a deliberate, objective, and unbiased federal scientific analysis of the true impacts that this massive and potentially publicly-funded project will have on economically disadvantaged Texans and on federal taxpayers nationwide, who may soon be compelled to shoulder the financial burden of launching this dangerous, insolvent and fatally flawed project as currently proposed.

## The Scoping /Screening Process: Super Neighborhoods and others Re-Route the Alignment After Having Received Notice

The FRA and Texas Central had numerous choices for their alignment route into Houston to ultimately arrive at a chosen terminus. Downtown was the original preferred terminus choice due to its proximity to the George R. Brown Convention Center, the Arts District, mass transit options including light rail, bus, and Amtrak, and numerous high-density uses such as office buildings and residential towers. During the original scoping and screening process, several routes were available to get to Downtown Houston, including the BNSF option and the I-45/Hardy option.

Both established and rapidly gentrifying residential areas stood in the path of those options. Upon hearing of the Texas Central project, “Super Neighborhood” areas rose up to mobilize, challenge, and comment upon the project’s potential effects on their own areas. A group called “Texas High Speed Rail Watch” was created by these largely affluent residents who mobilized letter writing campaigns and contacted their elected representatives to garner support for re-routing the project out of Downtown Houston and thus away from their Super Neighborhoods. Please see attached **Exhibit 3** with examples of elected officials’ letters and webpages from the Super Neighborhood groups.

### The Utility Corridor and Lack of Notice for Parties along HC-4

Texas Central opted to reassure the politically influential Super Neighborhood opposition groups and gave up its ambition to serve the residents and communities of Downtown Houston. Texas Central thus abandoned the BNSF and I-45/Hardy options and then switched to the “Utility and Infrastructure” Corridor roughly following along US 290 and the Hempstead Highway to Northwest Mall. This terminus choice is well outside of Downtown and features no links to mass-transit or nearby amenities. Using this option took the rail alignment well to the west of the city center and deep into the northwest Houston metro region.

The Utility Corridor Alignment choice now significantly impacted both Waller and Harris Counties. For the actual alignment routes to enter the Houston region, the FRA identified a path that roughly tracked near Hegar Road and a planned high-voltage transmission line (later identified as HC-Base, see **Exhibit 3.5**). Proximity to the planned power line was the primary benefit of this route, as well as its smaller distance to the City of Houston. This co-location avoided having to duplicate power lines elsewhere, since electrical lines are needed to power the train along its entire 240 mile path.

Unfortunately for Texas Central, opposition arose again among groups affected by the proposed Utility Corridor Alignment. Landowners along Hegar Road objected to the alignment; like the Super Neighborhoods, they had received advanced notice of the route per NEPA. Landowners and entities such as the Houston Oaks Country Club visited with Texas Central and lobbied to remove the Hegar Road option. Rice University’s landholdings in the area were also spared from the train alignment.

After months of public silence, Texas Central in November 2015 announced a third proposed alignment as the primary route into Houston. However, no one along the new route choice

“HC-4” had received advanced notice that their properties were in the path of the rail line. This lack of notice allowed Texas Central to ram through their chosen alignment with no advanced organized opposition.

The affected parties, including many majority minority areas in Waller and Northwest Harris Counties, were unable to comment or protest against the project like the Super Neighborhoods or the Hegar Road campaigns that had successfully lobbied Texas Central to move earlier proposed alignments and thereby prevent negative impacts on their preferred and more upscale communities. Please see **Exhibit 4**, letter dated June 26, 2020 to Paul Nissenbaum, which discusses in greater detail the NEPA violations resulting from this lack of notice.

#### Environmental Justice / Minority Impacts

This proposed project is rife with numerous disparate impacts on minority populations. The DEIS must effectively address and resolve environmental justice considerations as required by Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" and the Department of Transportation's Order on Environmental Justice.

Regrettably, of the various alternative high-speed rail alignments proposed through the Hockley region of northwest Houston, the proposed HC-4 alignment has the greatest harmful impacts on minority populations by both absolute numbers and overall county population percentage, as well as in the category of Low Income Families Compared to County Level Data (Block Groups).

The DEIS states that “the results of the analysis showed the (proposed HC-4 alignment) would have the greatest impact on archaeological sites and minority populations by percent.” The project would also have “substantial impacts to minority populations by count and low-income families when compared to county level data.” See “Step 2 Screening of Alignment Alternatives Report, “Summary Table HC-4,” p.60 (**Exhibit 5**).

According to the May 2016 Waller County Sub-Regional Planning Commission's Report (see **Exhibit 6**, pg. 5): “Instead of a rigorous analysis of the four “build” corridor alternatives that met the purpose and need statement, the FRA conducted what it describes as a “Fine Screening Analysis.” It compared the four build alternatives based on their “physical characteristics,” “operational feasibility,” and six “environmental constraints” - the number of stream crossings; wetlands acres; floodplains acres; number of historic properties and archaeological sites; acres of parks and national forest/national parks; and acres of managed habitat areas. The report emphasized that “there was no consideration of air quality, water quality, endangered and threatened species, land uses both existing and planned, impacts to the socioeconomic environment or minority populations, public health or safety, or many of the other 23 impacts required to be examined according to the FRA's environmental procedures. Based on the FRA's selective analysis during their fine screening process, they eliminated three of the primary build alternatives, leaving only one build corridor to examine pursuant to NEPA, the Utility Corridor.”

Texas Central could have proposed a railway corridor along or inside existing highway Right of Way. The DEIS recognized that placing the route outside of existing transportation infrastructure “would cause greater impacts to residential and commercial properties.” See DEIS at 7-64.

According to the Waller County commission, the decision to eliminate the I-45 Corridor route into Houston was due to its effect on U.S. Forest Service lands: “This decision, made without the required (NEPA) analysis, favors the federal landowner over the private landowner. It also favors saving trees over harming minority communities, conduct that NEPA expressly prohibits.”

The primary purpose for NEPA is to ensure that potential impacts are compared equally and not selectively. The FRA’s analysis improperly resulted in a single corridor proposal that cuts right through Waller County, with its 52% minority population. Also, in majority minority Waller County and in northwest Harris County, through which Texas Central proposes to build the high-speed rail project, the Waller Independent School District – which itself would be cut in half by the proposed rail project – has a high school population that is 60% economically disadvantaged. See <https://www.har.com/school/237904002/waller-high-school>

According to the May 2016 Waller County report (pg. 7): “Had they assessed these impacts closer, particularly those which fall within the category of social justice, and also looked beyond the 1,000 foot zone, they would have had to report to the public and decision makers that the impact to Waller County was significant. They would have also had to report that anywhere they placed the rail in Waller County was going to impact a community that was over 50% minority. Had they properly compared the four build alternatives that met the purpose and need statement pursuant to NEPA, they would have had to compare and analyze whether the impact to minority communities was significant alongside their premature decision that the impact to the national forest was significant. It is conceivable that the public and other federal decision makers would have called for a different preferred corridor. The FRA should pull back now and prepare a programmatic EIS that analyzes the four build alternatives pursuant to NEPA. Once this analysis is completed, then they should begin a segment-by-segment alignment analysis, also pursuant to NEPA.”

Finally, the existing and future minority populations in this area directly bisected by the proposed high-speed rail project would be adversely affected by the physical separation of this rapidly growing part of northwest Houston from the rest of the region. All land to the west of the tracks will depreciate. The tracks will be a physical barrier dividing communities and lowering the overall area tax base through the devaluation of land and the discouragement of commercial and residential areas near the tracks (See **Exhibit 7**, Texas Central Impact Map). The red dots on the map symbolize communities and areas that would be left on the “wrong side of the tracks,” including Waller County’s largest university, Prairie View A&M University, a historically black land-grant university, member of the Thurgood Marshall College Fund, and recent recipient of a \$50 million dollar donation from MacKenzie Scott. See <https://www.pvamu.edu/blog/a-gift-to-pvamu-donor-announces-50-million-gift-to-prairie-view-am-university/>

Minority and rural communities near the train’s path will be denied the robust tax base, strong home values, and economic opportunities enjoyed by their neighbors to the northeast and southeast. They will also be disproportionately harmed by nuisances such as noise, flooding, visual

blight, vibrations, and the electromagnetic fields brought into their neighborhoods by the train's power power source.  
power sources.

Given well publicized efforts to remove "community dividing barriers" such as I-69 East of Downtown Houston (near the George R. Brown Convention Center), or the Pierce Elevated Highway, the construction of a new railroad track "barrier wall" in a developing, high-growth area like the 290 Corridor appears regressive and retrograde. These environmental and social justice deficiencies are magnified by the fact that the miles-long embankments and fenced-in viaducts will be built for a publicly-subsidized company's financial benefit, and for use by a small number of privileged and largely affluent business-class riders at the expense of economically disadvantaged and underserved minority Texas residents.

The DEIS acknowledges that "transportation infrastructure can create a localized barrier between a residential community and social or community resources," but fails to apply this understanding to the many proposed and existing residential communities in northwest Harris County. See DEIS at 3.14-22.

Texas Central's proposed high-speed rail project, and specifically the HC-4 version of the "Hockley Curve" alignment, is not a viable alternative for the above discussed reasons. In addition, the cumulative effect of the future harmful economic and social damage resulting from the proposed alignment near Houston warrants far greater scrutiny from the FRA and USACE specifically and the Department of Transportation more broadly. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "William Papadopoulos", with a long horizontal flourish extending to the right.

William Papadopoulos

Delta Troy Interests, LTD